

FILED

APR 09 2007

**U.S. BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:)	Chapter 11
JOE MARTINEZ, SR. and and ELEANOR)	No. 0:07-bk-00016-JMM
MARTINEZ,)	No. 2-07-bk-00243-JMM
)	(Jointly Administered)
Debors.)	
In re)	MEMORANDUM DECISION
ANTHONY D. MARTINEZ (dba)	
MARTINEZ FARMS),)	
)	
Debtor.)	

The Debtors have asked permission, brought on in an emergency fashion, to borrow \$425,000 in order to plant cotton and condition 505 acres for that purpose.

The chapter 11 case of Joe and Eleanor Martinez (07-16) was filed on January 16, 2007. It is jointly administered with the case of Anthony D. Martinez, filed on January 22, 2007 (07-243).

The instant motion was filed on April 2, 2007 (Dkt. #89) and a hearing was held on April 6, 2007. The initial motion contained only a scant outline of what was anticipated to be accomplished by the loan, and it drew two objections. (Dkts. #95 and #99.)

The points raised by the objecting parties are meritorious. In particular, the information to support a loan of this magnitude, and the details thereof, are minimal. Thus, the court lacks the necessary supporting information to confidently grant the request. Lack of confidence in the Debtors' request translates into a finding that the Debtors cannot carry the requisite burden of proof of convince the court that such a loan is in the best interests of the estate.

1 Simply because the motion is couched as an "emergency" is not, by itself, enough of a reason
2 to run roughshod over the need for the court and creditors to be provided with enough information to make
3 an informed decision.

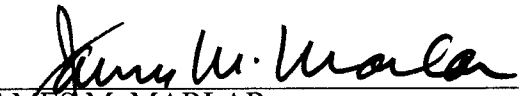
4 By now, the Debtors should have filed monthly operating reports concerning January and
5 February, but no such reports appear on the docket. Nor has a plan been filed.

6 The court has also read the exhibit filed by the Debtors, which consists of their attorney's
7 letter to the lender, and a short attempt at calculating a crop budget. The information provided is insufficient
8 to support the request. Additionally, the court reviewed the affidavit of Jean Gastelluberry and finds the
9 clarity of his views to have merit.

10 Ultimately, the court concludes that without a plan, or without a more complete hearing as
11 to the loan request, it is premature to begin incurring substantially more debt for a cotton operation, when
12 the Debtors' past experience appears to be in the hay, not cotton, business.

13 The motion will be denied. A separate order will be entered. FED. R. BANKR. P. 9021.

14
15 DATED: April 9, 2007.

16
17 
18 JAMES M. MARLAR
19 UNITED STATES BANKRUPTCY JUDGE
20
21
22
23
24
25
26
27
28

1 COPIES served as indicated below
2 this 9th day of April, 2007, upon:

3 Robert M. Cook
4 Law Offices of Robert M. Cook
5 Missouri Commons - Suite #185
6 1440 East Missouri
7 Phoenix, AZ 85014
8 Email: robertmcook@yahoo.com

9 Dean M. Dinner
10 Jennings, Haug & Cunningham, LLP
11 2800 N. Central Ave., Suite 1800
12 Phoenix, AZ 850004-1049
13 Email: dmd@jhc-law.com

14 Mark J. Giunta
15 Law Office of Mark J. Giunta
16 845 N. Third Ave.
17 Phoenix, AZ 85003-1408
18 Email mark.giunta@azbar.org

19 Christopher J. Pattock
20 Office of the U.S. Trustee
21 230 North First Avenue, Suite 204
22 Phoenix, AZ 85003-1706
23 Email christopher.j.pattock@usdoj.gov

24 By /s/ M. B. Thompson
25 Judicial Assistant
26
27
28